

Aviation Drug Abatement *Update*

January 1994

No. 94-1

SPECIAL EDITION—ANTIDRUG REPORTING REQUIREMENTS REVISED

On December 23, 1993, the FAA issued a final rule (copy attached to this newsletter) amending the antidrug reporting requirements to conform to a standard Department of Transportation (DOT) Management Information System (MIS). The new requirements will provide the FAA with additional data for use in monitoring the program and minimize the reports that must be submitted by small aviation entities. While the effective date of the rule is January 1, 1994, ***reports should not be submitted on the new format until 1995.*** Reports for calendar year 1993 should be submitted in the same format as for calendar years 1990-92.

SUMMARY OF CHANGES FROM CURRENT REQUIREMENTS

The following is a list of changes from the current reporting requirements. Significant changes will also be addressed separately following this section.

- Reporting limited to designated aviation employers.
- Expanded reporting format.
- Elimination of semiannual reporting; annual reporting only.
- March 15 submission date, annually, starting in 1995.
- Signature of the Antidrug Program Manager or other employer-designated representative on the report.
- Reports must be submitted in the standard prescribed format.
- "Short" format for employers with no verified positive test results.

WHO MUST SUBMIT A REPORT

Only certain aviation employers conducting drug testing under an FAA-approved drug program will be required to submit annual reports of program results to the FAA. Employers held to the highest standard of safety--carriers certificated under 14 CFR Part 121--will continue to be required to submit annual reports regardless of their size. Similarly, large entities will be required to report because they are generally carriers with significant numbers of passengers or companies that provide safety-sensitive services by contract to Part 121 carriers. Additionally, the FAA intends to survey a number of the remaining small aviation employers. *Even though you may not be required to submit an annual report, you remain responsible for maintaining drug testing program records.*

NOTE TO READERS: The FAA's new alcohol rule will be the subject of the next <i>Update special edition.</i>

The following employers are required to submit annual reports:

- ♦ **All Part 121 certificate holders.**
- ♦ **All entities with 50 or more employees, as of January 1 of the reporting year.**
- ♦ **Other aviation employers as required by the FAA. (Employers in this category will be notified in writing by the FAA that they will be required to submit a report.)**

REPORTING FORMAT EXPANDED, BUT SUBMISSION LESS FREQUENT

The data required on the report has been expanded to capture information on: current covered employees, testing information by employee category, positive and negative test results, and training provided. However, only an *annual report* covering the calendar year (January 1 through December 31) is required to be submitted. Beginning in 1995, reports will be due to the FAA *by March 15* of each year covering the previous calendar year. (e.g., The report for the period January 1, 1994 through December 31, 1994, must be submitted by March 15, 1995.) Each report *must be signed* by the Antidrug Program Manager or designated employer representative. Consortia may prepare reports on behalf of their members, but the reports must be signed by the aviation employer's Antidrug Program Manager or other designated representative. Each report *must* contain the following data elements:

- 1. Number of covered employees by employee category.**
- 2. Number of covered employees affected by the antidrug rule of another operating administration identified and reported by number and employee category.**
- 3. Number of specimens collected by type of test and employee category.**
- 4. Number of positive test results verified by a Medical Review Officer (MRO) by type of test, type of drug, and employee category.**
- 5. Number of negative tests reported by an MRO by type of test and employee category.**
- 6. Number of persons denied a position as a covered employee based on a verified positive preemployment drug test reported by an MRO.**
- 7. Action taken following a verified positive test result(s), by type of action.**
- 8. Number of employees returned to duty during the reporting period after having failed or refused to submit to a drug test required under the FAA rule.**

9. Number of employees by employee category with tests verified positive for multiple drugs by an MRO.
10. Number of employees who refused to submit to a drug test and the action taken in response to the refusal(s).
11. Number of covered employees who have received required initial training.
12. Number of supervisory personnel who have received required initial training.
13. Number of supervisors who have received required recurrent training.

STANDARD REPORTING FORMAT

The reporting format included in the final rule will be the DOT-wide standard reporting form for aviation employers. **No other form**, including another DOT operating administration's form, **is acceptable** for submission to the FAA. The Drug Abatement Division will distribute the forms to employers in sufficient time for preparing the 1994 data report.

"SHORT" FORM AVAILABLE

Employers with *no verified positive test results* may use a "short" form to report drug program results to the FAA. It captures information related to the number of covered employees, number of specimens collected and reported negative, number and disposition of individuals who refused to submit to drug testing, and training of employees. Each report with *only negative* test results *must* contain the following data elements:

1. Number of covered employees by employee category.
2. Number of covered employees affected by the antidrug rule of another operating administration identified and reported by number and employee category.
3. Number of specimens collected by type of test and employee category.
4. Number of negative tests reported by an MRO by type of test and employee category.
5. Number of employees who refused to submit to a drug test and the action taken in response to the refusal(s).

- 6. Number of employees returned to duty during the reporting period after having failed or refused to submit to a drug test required under the FAA rule.**
- 7. Number of covered employees who have received required initial training.**
- 8. Number of supervisory personnel who have received required initial training.**
- 9. Number of supervisors who have received required recurrent training.**

REPORTING DUAL COVERED EMPLOYEES

You are required to provide the "*number of covered employees affected by the antidrug rule of another operating administration identified and reported by number and employee category.*" This requires that you identify the number of employees in each employee category who were affected by the provisions of the FAA's and at least one other DOT operating administration's (OA) antidrug rule due to multiple functions performed by the employee.

When completing the "Drug Testing Information" section for preemployment and random testing, an employee should be reported to whichever OA covers more than 50 percent of that employee's function. For postaccident and reasonable cause/suspicion testing, however, reportability should be determined by the function the employee was performing at the time of the accident or when a supervisor makes a reasonable cause testing decision. Finally, for return-to-duty/follow-up testing, the employee should be reported to the same OA to whom the initial positive was reported.

REPORTING BY CONSORTIA

An FAA-approved consortium may continue to prepare reports on behalf of individual aviation employers for purposes of compliance with this reporting requirement. However, the *aviation employer shall sign* and submit such a report, and shall remain responsible for ensuring the accuracy and timeliness of each report prepared on its behalf by a consortium.

WHAT IS FOLLOW-UP TESTING?

The attached reporting format contains data elements, e.g., a category for follow-up testing, that differ slightly from the current FAA antidrug regulation but are in conformance with the nomenclature used in rulemaking initiated as a result of the Omnibus Transportation Employee Testing Act of 1991. The FAA rule amendment incorporating the Act's provisions will be forthcoming, and until published, aviation employers should report data elements for calendar year 1993 in the same format as calendar years 1990-92.

QUESTIONS & ANSWERS

Q. When must I begin using the new reporting format?

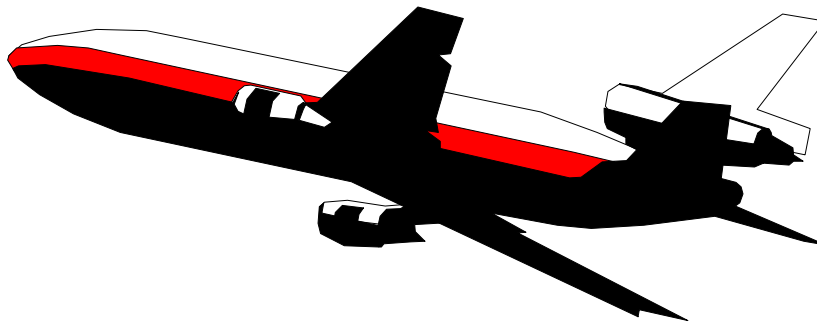
A. Drug testing program results must be collected for calendar year 1994 (January 1 through December 31), but the first report on the new report format will not be due until March 15, 1995.

Q. I am a Part 121 operator with 17 employees. Do I need to submit a report?

A. Yes. All Part 121 certificate holders, regardless of the number of employees, must submit a report to the FAA each year.

Q. My company has fewer than 50 employees. How will I know if I should submit a report?

A. The FAA will send you a letter via certified mail, advising you that you must submit a report. The letters will be sent in sufficient time to allow for report preparation and submission to meet the March 15 deadline.



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